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SENATE

{ REPORT
No. 91-1064

BLY D. DICKSON, JR.

JULY 30, 1970.—Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 12176]

The Committee on the Judiciary, to which was referred the bill (H.R. 12176) for the relief of Bly D. Dickson, Jr., having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation, is to pay Bly D. Dickson, Jr., of Seattle, Wash., \$1,034.50 in full settlement of his claims against the United States for reimbursement of expenses incident to the sale of his residence in Billings, Mont., at the time of his transfer from Billings, Mont., to Seattle, Wash., as an employee of the Post Office Department.

STATEMENT

The Post Office Department in its report to the House Judiciary Committee on the bill indicated it would not object to its enactment provided the amount was reduced to that permitted under applicable regulations. Mr. Dickson is a former railway mail clerk from Billings, Mont., who was transferred to the Seattle Post Office when his mail run was discontinued. He reported for duty there on October 7, 1967. Thereafter he sold his home in Billings. Final settlement or closing occurred on November 19, 1968. Pursuant to the authority of Public Law 89-516, Mr. Dickson submitted an application for reimbursement of expenses he incurred in selling his residence at his former duty station. However, since the closing took place more than 1 year after

Mr. Dickson reported for duty at his new official duty station, his claim for reimbursement had to be turned down. The 1-year limitation was prescribed by regulations of the Bureau of the Budget implementing Public Law 89-516. (Bureau of the Budget Circular A-56 revised, dated October 12, 1966, sec. 4.1d). The purpose of H.R. 12176 is to grant Mr. Dickson reimbursement for his expenses arising in connection with the sale of his residence, expenses which could not be administratively paid for the reason that the closing occurred too late.

At the time of his transfer, Mr. Dickson requested annual leave time before departing for his new duty station at Seattle, for the purpose of painting and improving his home in preparation for selling it. However, the personnel director at the Billings Post Office told him that the Department was anxious to place surplus employees as soon as possible; and advised Mr. Dickson that he had 2 years to submit his relocation expenses for reimbursement. The advice given Mr. Dickson was correct as to time allowed for moving household goods and personal effects, but apparently the personnel director thought the 2-year limitation also applied to all relocation expenses. This was in error.

In correspondence furnished the House Judiciary Committee Mr. Dickson stated that he had a buyer for the house on September 6, 1968, under a Veterans' Administration loan arrangement. The buyer's loan application was approved by the VA, but not until October 18, 1968.

The Post Office Department in its report to the House committee on the bill indicated that in its opinion this was a proper case for relief. The Department pointed out that Mr. Dickson acted in good faith and relied on the erroneous advice. In this connection, the Department stated:

The Department believes that relief should be granted in this case. Mr. Dickson certainly acted in good faith throughout. His reliance on the personnel director's advice discussed above was justifiably placed.

The House committee in recommending favorable action on the bill recommended an amendment which would reduce the amount stated so as to authorize the payment of the amount which would have been paid to Mr. Dickson under applicable regulations had the real estate closing occurred within the 1 year period. The amount originally stated in the bill was \$2,231.75. Of this amount \$900 was paid by Mr. Dickson for "mortgage discount points" and this amount could not be allowed as a reimbursable expense. The Post Office Department interpreted an additional \$297.25 as costs usually paid by a buyer and therefore reduced the amount to be paid to \$1,034.50. The initial report received by the House committee from the Comptroller General pointed out that the \$900 figure should have been eliminated but apparently differed with the Post Office Department on the interpretation as to the \$297.25. After reviewing the matter further, the General Accounting Office stated it agreed with the recommendation of the Post Office Department and recommended a payment of \$1,034.50 and this is the amount recommended by the House committee.

The committee is in agreement with the conclusions reached by the House Judiciary Committee and, accordingly, recommends favorable consideration of H.R. 12176, without amendment.

Attached hereto and made a part hereof are the reports submitted to the House Judiciary Committee by the Post Office Department and the Comptroller General of the United States:

POST OFFICE DEPARTMENT,
Washington, D.C., October 14, 1969.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 12176, a bill for the relief of Bly D. Dickson, Jr., of Seattle, Wash.

This measure would authorize the payment of \$2,231.75 to Mr. Dickson, in full settlement of all his claims against the United States for reimbursement of expenses arising in connection with the sale of his Billings, Mont., residence pursuant to his 1967 transfer of official station (from Billings, Mont., to Seattle, Wash.) as an employee of the Post Office Department.

Mr. Dickson is a former railway mail clerk from Billings, Mont., who was transferred to the Seattle Post Office when his mail run was discontinued. He reported for duty there on October 7, 1967. Thereafter he sold his home in Billings. Final settlement or closing occurred on November 19, 1968. Pursuant to the authority of Public Law 89-516, Mr. Dickson submitted an application for reimbursement of expenses he incurred in selling his residence at his former duty station. However, since the closing took place more than 1 year after Mr. Dickson reported for duty at his new official duty station, his claim for reimbursement had to be turned down. The 1-year limitation was prescribed by regulations of the Bureau of the Budget implementing Public Law 89-516. (Bureau of the Budget Circular A-56 revised, dated October 12, 1966, section 4.1d). The purpose of H.R. 12176 is to grant Mr. Dickson reimbursement for his expenses arising in connection with the sale of his residence, expenses which could not be administratively paid for the stated reason.

At the time of his transfer Mr. Dickson requested annual leave time before departing for his new duty station at Seattle, for the purpose of painting and improving his home in preparation for selling it. However, the personnel director at the Billings Post Office told him that the Department was anxious to place surplus employees as soon as possible; and advised Mr. Dickson that he had 2 years to submit his relocation expenses for reimbursement. The advice given Mr. Dickson was correct as to time allowed for moving household goods and personal effects, but apparently the personnel Director thought the 2-year limitation was for application to all relocation expenses. This was in error.

In correspondence Mr. Dickson stated that he had a buyer for the house on September 6, 1968, under a Veterans' Administration loan arrangement. The buyer's loan application was approved by the VA, but not until October 18, 1968.

The Department believes that relief should be granted in this case. Mr. Dickson certainly acted in good faith throughout. His reliance on the personnel director's advice discussed above was justifiably placed.

The amount of relief stated in the bill is \$2,231.75. The file discloses that this figure includes \$900 paid by Mr. Dickson for mortgage discount "points" and \$297.25 in costs normally and usually paid by the buyer in Billings. However, under the regulations in effect then and now, these are not allowable reimbursable expenses. Thus, even if Mr. Dickson had been able to timely file his application for reimbursement, he could not have been reimbursed for these items. He could have been reimbursed in the amount of \$1,034.50. Accordingly, if the bill is amended to provide for relief in the amount of \$1,034.50, the Department would not object to enactment of the legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the committee from the standpoint of the administration's program.

DAVID A. NELSON,
General Counsel.

By LOUIS A. COX,
Deputy General Counsel.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., July 31, 1969.

B-167350.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Your letter of June 25, 1969, requests our views on H.R. 12176. The bill would authorize and direct the Secretary of the Treasury to pay to Mr. Bly D. Dickson, Jr., the sum of \$2,231.75 in full settlement of all his claims against the United States arising from the expenses of selling his residence incident to a transfer of official station from Billings, Mont., to Seattle, Wash., as an employee of the Post Office Department.

Public Law 89-516, 80 Stat. 323 (5 U.S.C. 5724, 5724a), and Bureau of the Budget Circular No. A-56 set forth the law and regulations governing the reimbursement to Government employees of the expenses incurred in the sale of a residence incident to a permanent change of duty station.

According to the data in the Post Office Department's files, Mr. Dickson, a former railway mail clerk from Billings, Mont., was transferred to the Seattle Post Office when his mail route was discontinued. At the Department's request, he reported for duty at his new official station on October 7, 1967. Prior to his departure from Billings, he arranged with a local realtor to sell his home. The sale of his home was not completed until November 19, 1968, and Mr. Dickson then submitted to the Department an application for reimbursement of certain selling expenses totaling \$1,331.75.

Section 4 of circular No. A-56 provides that the Government will reimburse an employee for certain expenses required to be paid by him for the sale of his residence, provided that the settlement date for the sale for which reimbursement is requested is not later than 1 year after the date on which an employee reported for duty at the new official station, except that an appropriate extension of time may be authorized when settlement is unnecessarily delayed because of litigation.

Since there was a lapse of more than 12 months between October 7, 1967—when Mr. Dickson reported to his new duty station—and November 19, 1968, when the sale of his residence was consummated, and as the settlement of the sale was not delayed because of litigation, the Department denied Mr. Dickson's request for reimbursement.

H.R. 12176 would authorize reimbursement in the amount of \$2,231.75 instead of \$1,331.75 requested by Mr. Dickson in his application for reimbursement submitted to the Department. We were informed by a Post Office Department representative that the difference of \$900 between these amounts appears to pertain to a mortgage discount fee listed on the real estate broker's statement of sale. We have held that such mortgage discount fees are not reimbursable items of expense under the regulations, cited above. Additionally, section 4.2h of circular No. A-56 provides in part that:

"The aggregate amount of expenses which may be reimbursed in connection with the sale of the residence at the old official station shall not exceed 10 percent of the actual sale price, or \$5,000, whichever is the smaller amount; * * *

Mr. Dickson's residence was sold for \$15,000. Accordingly, the aggregate monetary limitation under that provision would have been \$1,500.

We note that under date of June 26, 1969, the regulations of Bureau of the Budget were amended to authorize the agencies to extend the 1-year limitation, under specified conditions other than litigation, for settlement of residence sale, purchase, or lease transactions. That amendment was not retroactive so as to be applicable to a situation such as here. Since there are numerous other employees in the same situation as Mr. Dickson, we would prefer relief legislation applicable to all such employees. If H.R. 12176 be favorably considered, we suggest that the amount thereof be reduced to \$1,331.75 the amount which would have been allowed had the 1-year limitation not been applicable.

Sincerely yours,

R. F. KELLER

(For the Comptroller General of the United States).







